IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16958 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PATEL NARESHKUMAR NARANBHAI

Versus

REGIONAL PASSPORT OFFICER

Appearance:

1. Special Civil Application No. 16958 of 2003

MR.HEMANG H PARIKH for Petitioner No. 1

MR DN PATEL WITH MR KRUNAL PANDYA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE C.K.BUCH

Date of decision: 24/12/2003

ORAL JUDGEMENT

1. Rule. Mr. Krunal Pandya learned counsel appearing for Mr. D.N. Patel learned Sr. Central

Government Standing Counsel waives formal service of Rule on behalf of respondent.

2. With the consent of the learned counsel for the parties, this matter is taken up for final hearing today.

3. By means of filing this petition the petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India and has prayed for appropriate writ, direction or order in the terms of 11 (A) of the petition.

4. I would like to quote the relevant prayer made in para 11 (A) of the petition.

> "Your Lordships be pleased to issue a writ of mandamus or any other appropriate writ order or direction to the respondent to issue passport in the name of the petitioner in accordance with law on the basis of his date of birth as recorded in the Birth Certificate issued by the Gram Panchayat,Vadavswami, Taluka : Kalol."

5. It is contended that the petitioner had applied for passport which was issued by the respondent authority on 6-10-2000 bearing No. A - 9176597. In the said passport the date of birth of the petitioner is mentioned as 02-5-1980.

6. According to the petitioner, his real date of birth is 2-5-1983. In fact, he is in possession of the certificate issued by the authority, which bears the correct birth date of the petitioner as 2-5-1983. The error has been cropped up because of the date reflected in the school leaving certificate. The birth date of the petitioner mentioned in the school leaving certificate is incorrect and therefore, the passport authorities, according to the petitioner, may be directed to issue fresh passport mentioning the date of birth as per the certificate issued by the authority from the Register maintained under the statute, viz. Birth & Death Registration Act, 1969 and the Rules framed thereunder.

7. In the circumstances, the petitioner is directed to make representation before the passport authorities with relevant documents requesting the passport authorities to issue new passport mentioning the correct date of birth of the petitioner.

8. On receipt of such representation from the petitioner, the passport authorities are directed to

decide the said representation, as expeditiously as possible, in accordance with law and issue fresh passport to the petitioner showing the correct date of birth of the petitioner, as mentioned in the certificate issued by the authority under Birth & Death Registration Act, 1969.

9. Before parting, I would like to mention here that this contingency has arisen because of the fault committed by the petitioner and therefore, the petitioner is liable to pay cost to the respondent authorities which is quantified at Rs.5,000/- (Rupees Five Thousand only). The petitioner is directed to deposit the cost of Rs.5,000/- (Rupees Five Thousand only) with the passport authorities.

10. Accordingly, the petition is allowed. Rule is made absolute to the aforesaid extent. D.S. is permitted.

(C.K. Buch, J.)

/JVSatwara/